

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MICHAEL McDONALD

Criminal No. 05-10016-RCL

DEFENDANT'S MOTION TO SUPPRESS

Defendant Michael McDonald respectfully moves, pursuant to the Fourth Amendment of the United States Constitution and Fed. R. Crim. P. 12 and 41, to suppress all statements made and all evidence seized, as a result of a stop and warrantless search of the defendant and his motor vehicle November 24, 2004. Defendant submits with this motion a preliminary memorandum of law.

Since defendant was arrested without a warrant, the government has the burden of showing that the challenged police conduct was lawful. United States v. Cruz Jimenez, 894 F.2d 1, 6 (1st Cir. 1990). Defendant reserves the right to amend or supplement this motion in response to the government's reply and to the extent that additional discovery and investigation make necessary.

REQUEST FOR EVIDENTIARY HEARING

Defendant respectfully requests an evidentiary hearing on this motion.

MICHAEL McDONALD

By his attorney,



JOHN M. MOSCARDELLI, BBO #357340

Peters & Moscardelli

Eight Winter Street, 12th Floor

Boston, MA 02108

Tel. (617) 423-6222

DATED:

7/20/05

Certificate of Service

I, JOHN M. MOSCARDELLI, counsel for the defendant, Michael McDonald, hereby certify that I have this day served a copy of the foregoing motion upon Assistant United States Attorney David G. Tobin of the United States Attorney's Office, United States District Court, One Courthouse Way, Suite 9200, Boston, MA 02210 by mailing the same, postage pre-paid.



JOHN M. MOSCARDELLI